

10/15/1999 09:39:58 AM
Page 1

1999 DRAFTING REQUEST

Bill

Received: 06/07/1999

Received By: malaigm

Wanted: As time permits

Identical to LRB:

For: Workforce Development
7-6704

By/Representing: Dick Smith

This file may be shown to any legislator: NO

Drafter: malaigm

May Contact:

Alt. Drafters:

Subject: Employ Priv - worker's comp

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Worker's compensation changes

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	malaigm 07/09/1999	jgeller 07/13/1999		_____			S&L
/1			kfollet 07/13/1999	_____	lrb_docadmin 07/13/1999		S&L
/2	malaigm 07/21/1999	jgeller 07/21/1999	kfollet 07/22/1999	_____	lwilliam 07/22/1999	lrb_docadmin 10/15/1999	

FE Sent For:

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/2	malaigm 07/21/99	ygeller 07/21/99	kfollet 07/22/99	_____	lwilliam 07/22/99		

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7/13/99 11:59:02 AM
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Page 1

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/?	malaigm	1 7/13 jg	7/13 kjf	7/13 km			

FE Sent For:

<END>

Legislative Proposals
Council on Workers' Compensation
Unanimously approved
May 24, 1999

LRB drafting request
June 4, 1999

Statute	Topic	Proposal
102.01(2)(b)	Deputy Administrator	<p>Repeal the following: "(b) 'Examiner' includes the deputy administrator of the worker's compensation division of the department."</p> <p><i>Comment: s. 102.18(2) requires examiners to be attorneys. The most recent deputy is not an attorney and has recommended the change.</i></p>
102.05(1) 102.04 (1) (b) 2	Withdrawal from coverage	<p>Currently, an employer may withdraw from coverage if the employer does not pay \$500 in "any" calendar quarter in a calendar year." Does the word, "any" mean "one" calendar quarter or "every" (that is, all four) calendar quarters? The proposed change would clarify that it means <u>every</u> calendar quarter, by substituting the word, "every" for the word "any" in the phrase "<u>any</u> calendar quarter in a calendar year."</p> <p><i>Comment: The courts have held that the statutory meaning of the word "any" depends upon the context in which it is used. "Any" can mean "all" or "only one" depending on the context. In this statute the context is not clear from the statute alone. However, the legislative history shows that the current language was part of a department proposal adopted in 1969 after 10 years of discussion. The documents at that time clearly show the agency's intention was that the word "<u>any</u>" meant "<u>every</u>" calendar quarter, not "<u>one</u>" calendar quarter.</i></p>
102.18(3)	LIRC petitions	<p>Amend 102.18(3) as follows: "A party in interest may petition the commission for review of an examiner's decision awarding or denying compensation if the department or commission receives the petition within 21 days after the department mailed a copy of the examiner's findings and order to the party's last-known address. The commission shall dismiss a petition which is not timely filed unless the <u>petitioner</u> shows <u>probable good cause</u> that the reason for failure to timely file was beyond the petitioner's control...."</p> <p><i>Comment: The petition itself cannot establish good cause for a person filing a petition late. LIRC currently gives the petitioner an opportunity to explain the delay after the petition is filed. This change would codify LIRC's current practice.</i></p>

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97 AB 725 - 106

Statute	Topic	Proposal
102.07(7) 102.475	Volunteer diving teams	<p>Enact legislation proposed as 1997 Assembly Bill 440. The bill clarifies that members of legally organized diving teams are employees of that team for purposes of worker's compensation coverage except that, if the team has not insured its liability for worker's compensation to its employees, the county or municipality within which that team is organized is liable for that worker's compensation.</p> <p>The bill also permits DWD to issue an order permitting the county within which a legally organized diving team is organized to assume full liability for all volunteer members of the team.</p> <p>The bill also requires DWD to pay death benefits of not less than \$50,000 to the dependents of a diving team member who dies as a result of an injury sustained while performing services growing out of and incidental to his or her employment or volunteer activity or who dies while totally and permanently disabled as a result of such an injury.</p> <p><i>Comment: Volunteer divers often search rivers and lakes at the request of law enforcement officers. This bill would remove any ambiguity about whether they are entitled to the same worker's compensation benefits as volunteer firefighters or legally organized rescue squads if they are injured or die as a result of such service.</i></p>
102.07(12m) 102.077(3) 102.29(8) 102.18(2)(d)	Sunsets on student work- study	<p>Extend the sunset provisions related to certain work-study situations covered in these statutes for another two years.</p> <p>RP 102.29 (9)?</p>
102.87(9)	UEF citation procedures	<p>Change the word "insured" to "uninsured."</p> <p><i>Comment: This corrects a typographical error. The citation procedure in this section is limited to actions for recovering a forfeiture under s. 102.85(1) or (2) that relate only to uninsured employers.</i></p>
15.227(4) and (11)	Appointing council members	<p>Designate the department secretary rather than LIRC as the appointing authority for the Council on Worker's Compensation and the Self-Insurance Council.</p> <p><i>Comment: The statute carries over from the time that the Commission administered the Department. LIRC and the Secretary recommend this change. As a matter of practice, LIRC has always deferred to the Secretary on all appointments to these councils. LIRC is recommending a similar change in the UI bill for that council.</i></p>

Prepared by
Richard D. Smith, Director
Bureau of Legal Services
Worker's Compensation Division


Attachments:

1. 102.05. Memo, Richard Smith, DWD, to Jack Martz, DWD, Election to withdraw from coverage, July 17, 1997
2. 102.18. e-mail, James Pflasterer, LIRC, to Richard Smith, DWD, January 20, 1999
3. 102.07(7) 1997 AB 440
Letter, LaCrosse County Sheriff Halverson to Mary Marks, DWD, August 22, 1997
Letter, State Rep. Dan Vrakas to Greg Krohm, DWD, September 22, 1997
Letter, Greg Krohm, DWD to State Rep. Dan Vrakas, November 17, 1997
Letter, Greg Krohm, DWD to State Rep. Dan Vrakas, February 19, 1997
4. 15.227 Memo, Linda Stewart, DWD to David Falstad, LIRC June 23, 1998
Memo, James Pflasterer, LIRC to Mike Mahoney, DWD April 28, 1998 (LRB draft for Law Revision Committee)

MEMORANDUM

DATE: July 17, 1997

TO: Jack Martz, Director
Bureau of Insurance Programs
Worker's Compensation Division

FROM: Richard D. Smith, Director
Bureau of Legal Services
Worker's Compensation Division 

RE: 102.05, WIS. STATS.
ELECTION TO WITHDRAW FROM COVERAGE

This is to respond to your June 24, 1997 memo forwarding a June 9, 1997 letter from Attorney Richard J. Rakita in which he was responding to the Department's June 4, 1997 letter relating to the period of time during which an employer must maintain worker's compensation insurance coverage prior to withdrawing pursuant to s. 102.05(1), Stats.

Statute. In relevant part, s. 102.05(1), Stats., states¹:

"An employer who has not usually employed 3 employees and who has not paid wages of at least \$500 for employment in this state *in any calendar quarter in a calendar year* may file a withdrawal notice with the department, which withdrawal shall take effect 30 days after the date of such filing or at such later date as specified in the notice." (Italics added.)

Issue. Does the phrase "in any calendar quarter in a calendar year" mean an employer may withdraw from being subject to the Act after a *single* quarter in which he or she does not pay \$500 in wages or must the employer not pay \$500 in wages in *every* calendar quarter for a full calendar year before being eligible to withdraw from being subject to the Act?

Answer. An employer may withdraw from being subject to the Act only if the employer does not pay \$500 in wages in every calendar quarter during an entire calendar year.

¹ In reviewing this statute, it is clear that a line has been dropped from the first sentence by the Revisor, at least in the Department's lemon-colored book of statutes and rules. That sentence is not relevant to this issue, but by copy of this memo I am requesting that Margaret O'Connell work with the Revisor of Statutes to restore the deleted material the next time this book is updated.

Reasoning.

1. **The statute is ambiguous.** Does the word "any" in the phrase, "in any calendar quarter in a calendar year" mean "one" calendar quarter or "every" calendar quarter? According to Black's Law Dictionary, Fifth Edition, the meaning of the word "any" depends upon the context and subject matter of the statute; the definition states, in part:

"Some; one out of many; an indefinite number....(but) does not necessarily mean only one person, but may have reference to more than one or to many.... The word 'any' has a diversity of meaning and may be employed to indicate 'all' or 'every' as well as 'some' or 'one' and its meaning in a given statute depends upon the context and the subject matter of the statute (*citations omitted*)...."

2. **Context and subject matter of the statute.** The context of the statute suggests that the word "any" means "every" in the phrase "in any calendar quarter in a calendar year."

The withdrawal provision in s. 102.05(1), Stats., was enacted in 1967 Senate Bill 314, the "agreed upon" bill submitted by the Council on Worker's Compensation. A review of the Advisory Council's minutes and correspondence from 1966 to 1969 make it clear that s. 102.05(1) is to be read in context with s. 102.04(1)(b)2., Stats. Section 2 of 1967 SB 314, creating s. 102.04(1)(b)2., Stats., was the Department's top priority in the bill. Section 3 of the bill repealed and recreated s. 102.05 in essentially the same form that it is today. In his June 5, 1967 letter to the members of the Senate Labor Committee, the Director of the Worker's Compensation Division, Mr. Gintz, described sections 2 and 3 of the bill as follows:

"Section 2. Employers presently are not required to carry Workmen's Compensation insurance unless they usually have three or more employees. This section would eliminate such numerical exemption. Our three adjoining states and many others do not have a numerical exemption. There is increasing pressure for federal Workmen's Compensation standards unless the state laws are altered to provide more adequate coverage. A copy of the minimum premiums and rates for specified occupations was given to you at the public hearing. This proposal has been discussed by the Advisory Committee for approximately the past ten years but has not previously been presented as a recommendation in a bill. The governing board of the State Medical Society has expressed its support for this change insofar as it would affect members of the medical profession. You will recall the numerous appearances in support of this amendment and that the only opposition was by two individuals representing barbers.

"Sections 3 [repealing and recreating s. 102.05(1), Stats.] 4 and 5 provide procedural changes which would be necessary if Section 2 is enacted." (Emphasis added.)

In addition, the drafter's notes to 1967 SB 314 force the same conclusion that the two sections should be read together. Immediately following section 3, the note describes the changes to both 102.04 and 102.05. It reads in relevant part:

"NOTE: 102.04 is amended to make an employer subject if: ...he usually employs less than 3 employees but pays wages of \$500 or more in a calendar quarter...."

"102.05 is similarly amended to provide that an employer who has not paid wages of at least \$500 in employment in Wisconsin in any calendar quarter may withdraw."
(Emphasis added.)"

Today, under s. 102.04, an employer becomes subject to the Act 10 days after the end of the calendar quarter in which \$500 in wages is paid. However, at the time s. 102.04 was enacted, an employer did not become subject to the Act until January 1st of the year after the \$500-wage-calendar-quarter. If the employer paid \$500 in wages in the first calendar quarter of 1969, the employer did not become subject to the Act until January 1, 1970--so that, becoming subject to the Act occurred almost a year after the fact. Other interpretations are possible, but one "similar" interpretation of 102.05 would have the Division look at, as the statute says, the full "calendar year." The similarity in both statutes is that activity during the *prior* year determined whether an employer was subject to the Act (102.04) or eligible to withdraw from being subject to the Act (102.05) in the *subsequent* year.

Finally, in a broader context, it is black-letter law in worker's compensation that the statutes are to be liberally construed in favor of coverage. Currently, any employer who becomes subject to the Act by paying more than \$500 in a calendar quarter, and who later lays off all his or her employees may *drop* insurance coverage (i.e., stop paying premiums), *but remains subject to the Act* for two years. This means if the employer then hires any employee during that two-year period, immediate insurance coverage is required. This often happens in resort towns during the off-season. No premium is paid during those winter months, but the employer remains subject to the Act and is required to have insurance coverage the first day he or she hires an employee in the spring or summer.

In Mr. Rakita's case, it is my understanding that an employer subject to the Act did not lay off all its employees. The employer has one or two employees, but paid less than \$500 in wages in the first and second calendar quarters of 1997. Thus, insurance coverage for the employee(s) is still required. The employer and employee(s) remain subject to the Act for the remainder of the calendar year and receive a benefit for the premium paid during that time.

3. Consistent, long-standing agency interpretation. Even assuming the statute remains ambiguous when read in context with s. 102.04, Stats., as the Wisconsin Supreme Court recently said in *Hagen v. LIRC* (citations omitted) "(g)reat weight deference to an agency's interpretation of a statute is appropriate when: (1) the agency is charged by the legislature with administering the statute; (2) the interpretation of the agency is one of long standing; (3) the agency employed its expertise or specialized knowledge in forming the interpretation; and (4) the agency's interpretation will provide uniformity in the application of the statute" (citations omitted). Since the statute first took effect on July 1, 1968, for almost 30 years the Department has consistently interpreted the withdrawal provision as though the phrase "any calendar quarter" means "every calendar quarter."

4. Agency "expertise and specialized knowledge." In the four-factor test cited in *Hagen*, factors 1, 2 and 4 are not debatable. With respect to the 3rd factor, a careful review of the records of the Council on Worker's Compensation from the 1966 to 1969 show that it was the Department which initiated the change to s. 102.05, Stats., not the labor, management or insurance members of the Council. Moreover, the amendment to s. 102.05, Stats., was part of the Department's *number one priority* for that legislative session. It had also been discussed for more than 10 years prior to enactment. With this history, it is reasonable to presume that the agency clearly understood its own proposal, particularly when it was part of such a significant revision.

5. Form WC-70. The first withdrawal form titled, "EMPLOYER'S NOTICE OF WITHDRAWAL FROM THE WORKMEN'S COMPENSATION ACT," is numbered form "WC-70" and was finalized in March, 1969. It asks 7 questions requiring one or two word answers. Question 3 on that form asks a simple yes/no question:

"3. Have you paid wages of at least \$500 for work done in Wisconsin in any calendar quarter of the last calendar year? _____."

The wording of the question makes it clear that the Department charged with administering the statute assumed from the start that all four calendar quarters of the prior year were relevant.

6. Form WC-175. No later than April, 1970 Form WC-175 was required in addition to Form WC-70. Form WC-175 required the employer seeking to withdraw to fill out the actual dollar amounts paid in wages in each of the four calendar quarters of the prior and current years--on eight separate lines. Again, the contemporaneous interpretation of the statute by the agency charged with administering the provision is persuasive of what was intended.

Attachments: June 4, 1997 letter from the Department
 June 9, 1997 letter from Mr. Rakita
 1967 Senate Bill 314, pages 1-3
 Form WC-70, March 1969
 Form WC-175, April 1970
 June 5, 1967 Letter from Gintz to Labor Committee, page 1
 List, Proposed Amendments to Worker's Compensation Act
 by the Industrial Commission (1966)

Pflasterer, James

From: Pflasterer, James
Sent: Wednesday, January 20, 1999 11:45 AM
To: Smith, Richard
Cc: Falstad, David
Subject: Minor LIRC Legislative Proposals for Council Bill

When I had talked with you about this a couple of weeks ago, I mentioned considering getting rid of the "probable good cause" language in the late petition for commission review language at 102.18(3). After discussion with staff here, I think perhaps the current version, as parallel with its counterpart in UI, allows the commission more flexibility, and should remain as is.

One thing we still would like changed in 102.18(3), though, is the word "petition" in one of its occurrences in the provision, which we would like to read:

102.18(3) A party in interest may petition the commission for review of an examiner's decision awarding or denying compensation if the department or commission receives the petition within 21 days after the department mailed a copy of the examiner's findings and order to the party's last-known address. The commission shall dismiss a petition which is not timely filed unless the ~~petition~~ petitioner shows probable good cause that the reason for failure to timely file was beyond the petitioner's control. If no petition is filed within 21 days from the date...

Another thing LIRC has been attempting to accomplish is getting the appointing authority for certain statutory councils changed from the commission to the DWD secretary. The last budget bill eliminated some of the councils at issue, but there remain the worker's compensation council, the self-insurer's council, and the apprenticeship council. Relevant information from prior attempts to make this change is attached. Do you think the advisory council bill is a good place to make the change as to the WC council and the self-insurer's council, or would it be better, as the secretary's office suggested, to await a department technical language bill?

(It just occurred to me that I can't send the printed attachment with this E-mail, so I will just print this off and send it inter-D with the attachment).

KARL W. HALVERSON
SHERIFF
GARY T. WESTLIE
CHIEF DEPUTY

LA CROSSE COUNTY SHERIFF'S OFFICE

ADMINISTRATIVE CALLS - (608) 785-9629
NON-EMERGENCY DISPATCH - (608) 784-2668
FAX - (608) 785-5640

333 VINE STREET • ROOM 1500
LA CROSSE, WISCONSIN 54601-3296



*Disc
Just found out
about this legislation
Just*

August 22, 1997

Ms. Mary Marks, Investigator
Division of Worker's Compensation
Department of Workforce Development
201 E Washington Avenue
Post Office Box 7901
Madison, Wisconsin 53707-7901

RECEIVED
AUG 26 1997
WORKERS COMP. DIV 9/8 -

*Gray Kohn -
how do you
want to handle
this?
RDS*

RE: La Crosse Area Underwater Rescue and Recovery Unit Ltd.

Dear Investigator Marks,

Enclosed is your Volunteer Organization Employment Status Certification Report. Also included are the Unit's Articles of Incorporation and Bylaws.

The La Crosse Dive Unit is clearly a volunteer organization. It's members are unpaid in any manner and they provide much of their equipment at their personal expense. Operational expenses are funded through donations and fund raising efforts of the members.

Most services provided by the dive unit are search and rescue related, to the benefit of La Crosse area police and fire agencies. Dive unit members are deputized by me and when called into service they operate under the auspices of the La Crosse County Sheriff. Their official status is that of non-sworn Special Deputy Sheriff appointed under Wis ss 59.21(5). They are not paid for their services.

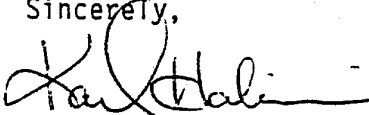
Recently I requested legislation that will allow worker's compensation coverage under Wis ss for legally organized dive units. That legislation titled 1997 Assembly Bill 440 is now in the system and a copy is being provided to you. This requested legislation resulted from problems we encountered in trying to insure dive unit members for worker's compensation while in service for us.

Page Two
August 22, 1997
Ms. Mary Marks

La Crosse County recognizes their special relationship with the dive unit when services are being provided as Sheriff's Deputies. La Crosse County has also agreed to voluntarily cover the dive unit member for worker's compensation purposes.

If you require anything further, please let me know.

Sincerely,



Karl W. Halverson
SHERIFF

KWH/sms

cc: Gary Ingvalson, Finance Director
Jack Haase, Dive Unit Leader

RECEIVED
AUG 26 1997
WORKERS COMP.

Daniel P. Vrakas

Wisconsin State Representative

Chair: Assembly Committee on Labor & Employment
Vice-Chair Majority Caucus

September 22, 1997

Greg Krohm, Chair
Worker's Compensation Advisory Council
Room 161, 124 E. Washington Avenue
Madison, Wisconsin 53703

Dear Mr. Krohm:

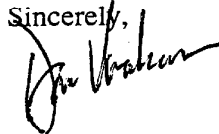
Enclosed you will find a copy of Assembly Bill 440 which was referred to the Assembly Labor and Employment Committee for consideration. This bill relates to worker's compensation coverage of a member of a legally organized diving team.

I am formally requesting that the Worker's Compensation Advisory Council discuss Assembly Bill 440. With this request I am not taking a position on this bill, but rather defer to the expertise of the Council process for a recommendation.

As you know, I am a supporter of the WCAC process and will respect the recommendation the Council makes regarding AB 440. I do not plan to take any formal action in the Assembly Labor Committee prior to receiving comment from the Council.

I thank you in advance for your attention to this matter. If you have any questions, please do not hesitate to contact me.

Sincerely,



Daniel P. Vrakas
State Representative
33rd Assembly District

cc: Representatives Meyer, Musser, Plouff, Sykora, Goetsch, Kelso, Gunderson and Porter; Senator Rude, Farrow and Roessler



State of Wisconsin
1997 - 1998 LEGISLATURE

LRB-3122/1

GMM:kafije

1997 ASSEMBLY BILL 440

July 1, 1997 - Introduced by Representatives MEYER, MUSSER, PLOUFF, GRONEMUS, SYKORA, GOETSCH, KELSO, GUNDERSON and PORTER, cosponsored by Senators RUDE, FARROW and ROESSLER. Referred to Committee on Labor and Employment.

1 AN ACT *to amend* 102.07 (7) (a), 102.07 (7) (b), 102.475 (title), 102.475 (1) and
2 102.475 (8) (b); and *to create* 102.475 (8) (am) and 102.475 (8) (dm) of the
3 statutes; relating to: worker's compensation coverage of a member of a legally
4 organized diving team.

Analysis by the Legislative Reference Bureau

Under current law, a member of a volunteer fire department or legally organized rescue squad is considered to be an employee of that department or squad for purposes of worker's compensation coverage except that, if that department or squad has not insured its liability for worker's compensation to its employees, the county or municipality within which that department or squad is organized is liable for that worker's compensation. Current law also permits the department of workforce development (DWD) to issue an order permitting the county within which a volunteer fire department, legally organized rescue squad or ambulance service provider is organized to assume full liability for worker's compensation for all volunteer members of that department, squad or provider.

This bill provides that a member of a legally organized diving team is considered to be an employee of that team for purposes of worker's compensation coverage except that, if that team has not insured its liability for worker's compensation to its employees, the county or municipality within which that team is organized is liable for that worker's compensation. The bill also permits DWD to issue an order permitting the county within which a legally organized diving team

ASSEMBLY BILL 440

is organized to assume full liability for worker's compensation for all volunteer members of that team.

Under current law, if a law enforcement officer, correctional officer, fire fighter, rescue squad member, national guard member, state defense force member or emergency management employee or volunteer dies as a result of an injury sustained while performing services growing out of and incidental to his or her employment or volunteer activity or dies while totally and permanently disabled as a result of such an injury, DWD must pay death benefits of not less than \$50,000 to the person's dependents.

This bill requires DWD to pay death benefits of not less than \$50,000 to the dependents of a diving team member who dies as a result of an injury sustained while performing services growing out of and incidental to his or her employment or volunteer activity or who dies while totally and permanently disabled as a result of such an injury.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 102.07 (7) (a) of the statutes is amended to read:

102.07 (7) (a) Every member of ~~any~~ a volunteer fire company or fire department organized under ch. 213 ~~or any~~, a legally organized rescue squad shall be deemed or a legally organized diving team is considered to be an employee of such that company, department or squad or team. Every such member of a company, department, squad or team described in this paragraph, while serving as an auxiliary police officer at an emergency, ~~shall also be deemed~~ is also considered to be an employee of said that company, department or, squad or team. If ~~such~~ a company, department ~~or, squad or team described in this paragraph~~ has not insured its liability for compensation to its employees, the municipality or county within which ~~such~~ that company, department ~~or, squad or team~~ was organized shall be liable for ~~such~~ that compensation.

SECTION 2. 102.07 (7) (b) of the statutes is amended to read:

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AUG 26 1997

WORKERS COMP.

ASSEMBLY BILL 440

1 102.07 (7) (b) The department may issue an order under s. 102.31 (1) (b)
2 permitting the county within which a volunteer fire company or fire department
3 organized under ch. 213, a legally organized rescue squad ~~or~~, an ambulance service
4 provider, as defined in s. 146.50 (1) (c), or a legally organized diving team is organized
5 to assume full liability for the compensation provided under this chapter of all
6 volunteer members of that company, department, squad ~~or~~, provider or team.

7 SECTION 3. 102.475 (title) of the statutes is amended to read:

8 102.475 (title) Death benefit; law enforcement and correctional
9 officers, fire fighters, rescue squad members, diving team members,
10 national or state guard members and emergency management personnel.

11 SECTION 4. 102.475 (1) of the statutes is amended to read:

12 102.475 (1) SPECIAL BENEFIT. If the deceased employe is a law enforcement
13 officer, correctional officer, fire fighter, rescue squad member, diving team member,
14 national guard member or state defense force member on state active duty as
15 described in s. 102.07 (9) or if a deceased person is an employe or volunteer
16 performing emergency management activities under ch. 166 during a state of
17 emergency or a circumstance described in s. 166.04, who sustained an accidental
18 injury while performing services growing out of and incidental to that employment
19 or volunteer activity so that benefits are payable under s. 102.46 or 102.47 (1), the
20 department shall voucher and pay from the appropriation under s. 20.445 (1) (aa) a
21 sum equal to 75% of the primary death benefit as of the date of death, but not less
22 than \$50,000 to the persons wholly dependent upon the deceased. For purposes of
23 this subsection, dependency shall be determined under ss. 102.49 and 102.51.

24 SECTION 5. 102.475 (8) (am) of the statutes is created to read:

1 102.475 (8) (am) "Diving team member" means a member of a legally organized
2 diving team.

3 SECTION 6. 102.475 (8) (b) of the statutes is amended to read:

4 102.475 (8) (b) "Fire fighter" means any person employed by the state or any
5 political subdivision as a member or officer of a fire department or a member of a
6 volunteer department, including the state fire marshal and deputies ~~or a member of~~
7 ~~a legally organized rescue squad.~~

8 SECTION 7. 102.475 (8) (dm) of the statutes is created to read:

9 102.475 (8) (dm) "Rescue squad member" means a member of a legally
10 organized rescue squad.

11 SECTION 8. Initial applicability.

12 (1) The treatment of sections 102.07 (7) (a) and 102.475 (1) and (8) (dm) of the
3 statutes first applies to injuries occurring on the effective date of this subsection.

14 (END)

Tommy G. Thompson
Governor

Linda Stewart
Secretary

Gregory Krohm
Division Administrator



State of Wisconsin

Department of Workforce Development

WORKER'S COMPENSATION
201 East Washington Avenue
P.O. Box 7901
Madison, WI 53707-7901
Telephone: (608) 266-1340
Fax: (608) 267-0394
<http://www.dwd.state.wi.us/wc/>

November 17, 1997

The Honorable Daniel P. Vrakas
P.O. Box 8953
Madison, WI 53708-8953

Dear Representative Vrakas:

I apologize for the delay in responding to your September 22, 1997 letter regarding 1997 AB 440 relating to worker's compensation coverage for a member of a legally organized diving team.

As you requested, I will refer the bill to the Council on Worker's Compensation for formal review at their next meeting on February 18, 1998.

Sincerely,

A handwritten signature in black ink, appearing to read 'Greg Krohm'.

Gregory Krohm, Administrator
Worker's Compensation Division



Tommy G. Thompson
Governor

Linda Stewart
Secretary

Gregory Krohm
Division Administrator



State of Wisconsin

Department of Workforce Development

WORKER'S COMPENSATION
201 East Washington Avenue
P.O. Box 7901
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<http://www.dwd.state.wi.us/wc/>

February 19, 1997

The Honorable Daniel Vrakas
State Representative
P.O. Box 8953
Madison, WI 53708-8953

Dear Representative Vrakas:

This is to follow up on my September 22, 1997 correspondence regarding 1997 Assembly Bill 440 relating to worker's compensation coverage for dive team members.

As you requested, at its February 18, 1998 meeting, the Council on Worker's Compensation reviewed AB 440. Some questioned the need for the bill because they felt that there was a reasonable likelihood that dive-team members would be covered under current law. Others noted what appeared to be a circular definition of what constitutes a legally-organized dive team and asked whether that could be clarified.

While no formal vote was taken, there was a clear consensus to include the proposal, perhaps with some minor clarifying amendments, in their recommendations to the Legislature for action during the 1999-2000 session. For the reasons outlined above, the Council members felt the proposal lacked sufficient urgency to recommend it as a separate proposal outside the normal agreed-upon bill process. Based on yesterday's preliminary discussion, I am confident that the proposal will eventually have the unanimous support of the Council.

Thank you for bringing this matter to our attention.

Sincerely,

Gregory Krohm, Chair
Council on Worker's Compensation

cc: Members of the Council on Worker's Compensation



InterOffice Memo

Labor and Industry Review Commission

Date: April 14, 1998

To: Mike Mahoney

From: James L. Pflasterer, General Counsel

Subject: Biennial Budget Legislative Change Proposal -- LIRC

The commission would like to have the statutory authority in section 15.227 of the statutes to appoint certain advisory councils transferred from the commission to the DWD secretary. Under current practice, LIRC appoints the members requested by the department secretary. The Legislative Fiscal Bureau recommended such changes as part of a package affecting LIRC in the last state biennial budget bill. As a result of the budget, three of the six councils in question were eliminated, presumably based on the Lieutenant Governor's recommendation, but the remaining three are still under the appointment authority of LIRC.

The councils in question are Worker's Compensation, Self-Insurers, and Apprenticeship. The relevant subsections are 15.227 (4), (11), and (13).

We also made this proposal to the Law Revision Committee in the fall of 1996, but the committee believed this change was more substantive than was appropriate for its section 13.83 minor remedial measures authority. However, staff attorneys at the Legislative Council did draft a proposal for presentation to the committee, before that portion was deleted. I am attaching a copy of the relevant draft for possible reintroduction as a DWD proposal for this biennial budget.

If you have any questions regarding this proposal, please let me know.

Enc.

cc: David B. Falstad
Kathie Grove

BILL

timely filed unless the *petitioner* shows that the reason for failure to timely file was beyond the petitioner's control. As such, the bill eliminates the requirement that the *petition* shows *probable good cause* that the reason for failure to timely file was beyond the petitioner's control.

Similarly, under current law, LIRC must dismiss a petition for review of an appeal tribunal decision relating to unemployment compensation that is not received by DWD or LIRC or postmarked within 21 days after the appeal tribunal decision was mailed to the petitioner's last-known address, unless the petitioner shows probable good cause that the reason for having failed to file the petition timely was beyond the control of the petitioner. This bill requires LIRC to dismiss such a petition that is not timely filed unless the petitioner shows that the reason for having failed to file the petition timely was beyond the control of the petitioner. As such, the bill eliminates the requirement that the petitioner show *probable good cause* that the reason for having failed to file the petition timely was beyond the control of the petitioner.

For further information, see the NOTES provided by the law revision committee of the joint legislative council.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

LAW REVISION COMMITTEE PREFATORY NOTE: [This bill is a remedial legislation proposal, requested by the labor and industry review commission and introduced by the law revision committee under s. 13.83 (1) (c) 4., stats.] After careful consideration of the various provisions of the bill, the law revision committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

1 SECTION 1. 15.227 (4) of the statutes, as affected by 1997 Wisconsin Act 3, is
2 amended to read:

3 15.227 (4) COUNCIL ON WORKER'S COMPENSATION. There is created in the
4 department of workforce development a council on worker's compensation appointed
5 by the ~~labor and industry review commission~~ secretary of workforce development to
6 consist of a member or designated employee of the department of workforce
7 development ~~or the labor and industry review commission~~ as chairperson, 5
8 representatives of employers and 5 representatives of employees. The ~~commission~~
9 secretary of workforce development shall also appoint 3 representatives of insurers

1 authorized to do a worker's compensation insurance business in this state as
2 nonvoting members of the council.

3 SECTION 2. 15.227 (11) of the statutes, as affected by 1997 Wisconsin Act 3, is
4 amended to read:

5 15.227 (11) SELF-INSURERS COUNCIL. There is created in the department of
6 workforce development a self-insurers council consisting of 5 members appointed by
7 the ~~labor and industry review commission~~ secretary of workforce development for
8 3-year terms.

9 SECTION 3. 15.227 (13) of the statutes, as affected by 1997 Wisconsin Act 3, is
10 amended to read:

11 15.227 (13) WISCONSIN APPRENTICESHIP COUNCIL. There is created in the
12 department of workforce development a Wisconsin apprenticeship council appointed
13 by the ~~labor and industry review commission~~ secretary of workforce development.

14 SECTION 4. 102.18 (3) of the statutes is amended to read:

15 102.18 (3) A party in interest may petition the commission for review of an
16 examiner's decision awarding or denying compensation if the department or
17 commission receives the petition within 21 days after the department mailed a copy
18 of the examiner's findings and order to the party's last-known address. The
19 commission shall dismiss a petition which is not timely filed unless the ~~petition~~
20 petitioner shows ~~probable good cause~~ that the reason for failure to timely file was
21 beyond the petitioner's control. If no petition is filed within 21 days from the date
22 that a copy of the findings or order of the examiner is mailed to the last-known
23 address of the parties in interest, the findings or order shall be considered final
24 unless set aside, reversed or modified by the examiner within that time. If the
25 findings or order are set aside by the examiner the status shall be the same as prior

InterOffice Memo

Department of Workforce Development

Date: June 23, 1998

File Ref:

To: ~~David Falstad, Chairman~~ → Kendra
Labor and Industry Review Commission

From: Linda Stewart, Secretary LS

Subject: **Biennial budget Legislative Change Proposal**

Thank you for your submission of a statutory language change to section 15.227. We have reviewed the request against the Biennial Budget instructions and find that we cannot include the change in the budget request as it will not have an affect on any appropriation. We will include the change in the next available vehicle such as a Department technical language bill.

If you have any questions regarding this issue or other biennial budget issues, please contact Mike Mahoney or your budget analyst.

cc: Bruce Hagen
Connie Hagen
Orlando Canto
Mike Mahoney



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-3192

GMM.....

SOON

JK

gen cat

1 AN ACT ...; relating to: various changes to the worker's compensation law.

Analysis by the Legislative Reference Bureau

This bill makes various changes relating to worker's compensation, as administered by the department of workforce development (DWD), as follows:

Withdrawal from coverage

Under current law, every person who usually employs three or more employees and every person who usually employs less than three employees, but who has paid wages of \$500 or more in any calendar quarter for services performed in this state, is subject to the worker's compensation law. An employer who has not usually employed three employees and who has not paid wages of at least \$500 in this state in any calendar quarter in a calendar year, however, may withdraw from coverage under the worker's compensation law. This bill restricts withdrawal from worker's compensation coverage for an employer who has not usually employed three employees only if the employer has not paid wages of at least \$500 in this state in every calendar quarter in a calendar year.

Coverage of diving team members

Under current law, a member of a volunteer fire department or legally organized rescue squad is considered to be an employee of that department or squad for purposes of worker's compensation coverage except that, if that department or squad has not insured its liability for worker's compensation to its employees, the county or municipality within which that department or squad is organized is liable for that worker's compensation. Current law also permits DWD to issue an order permitting the county within which a volunteer fire department, legally organized rescue squad or ambulance service provider is organized to assume full liability for worker's compensation for all volunteer members of that department, squad or provider.

This bill provides that a member of a legally organized diving team is considered to be an employee of that team for purposes of worker's compensation coverage except that, if that team has not insured its liability for worker's compensation to its employees, the county or municipality within which that team is organized is liable for that worker's compensation. The bill also permits DWD to issue an order permitting the county within which a legally organized diving team is organized to assume full liability for worker's compensation for all volunteer members of that team.

Under current law, if a law enforcement officer, correctional officer, fire fighter, rescue squad member, national guard member, state defense force member or emergency management employee or volunteer dies as a result of an injury sustained while performing services growing out of and incidental to his or her employment or volunteer activity or dies while totally and permanently disabled as a result of such an injury, DWD must pay death benefits of not less than \$50,000 to the person's dependents.

This bill requires DWD to pay death benefits of not less than \$50,000 to the dependents of a diving team member who dies as a result of an injury sustained while performing services growing out of and incidental to his or her employment or volunteer activity or who dies while totally and permanently disabled as a result of such an injury.

Extension of expiring provisions

Currently, a student of a public school or a private school, while he or she is engaged in performing services as part of a school work training, work experience or work study program, who is not on the payroll of an employer that is providing the work training or work experience or who is not otherwise receiving compensation on which a worker's compensation carrier could assess premiums on that employer, is an employee of a school district or private school that elects to name the student as an employee for purposes of worker's compensation coverage. Also, under current law, a student who is named as an employee of a school district or private school for purposes of worker's compensation coverage and who makes a claim for worker's compensation against his or her school district or private school may not also make a claim for worker's compensation or maintain an action in tort against the employer that provided the work training or work experience from which the claim arose. Currently, these provisions do not apply to injuries occurring after December 31, 1999. This bill extends that expiration date to December 31, 2001.

Under current law, DWD may determine the reasonableness of the fees charged for health services that are provided for an injured employee for whom worker's compensation is paid. Currently, DWD's authority to determine the reasonableness of a health service fee expires on July 1, 2000. This bill extends that expiration date to July 1, 2002.

Council on worker's compensation and self-insurer's council

Under current law, there is created in DWD a council on worker's compensation whose duties include advising DWD in carrying out the purposes of the worker's compensation law, submitting recommendations relating to amendments to the worker's compensation law to each regular session of the legislature and reporting

its views on pending legislation relating to worker's compensation to the proper legislative committees. Currently, the members of the council on worker's compensation are appointed by the labor and industry review commission (LIRC), and a designated employee of DWD or LIRC may serve as chairperson of the council. This bill requires the secretary of workforce development, rather than LIRC, to appoint the members of the council on worker's compensation. The bill also eliminates the option of designating an employee of LIRC to serve as chairperson of the council.

Under current law, there is created in DWD a self-insurers council whose duties include advising DWD on matters relating to employers that self-insure their worker's compensation liability rather than purchase insurance to cover that liability, including any proposed revocation by DWD of an employer's self-insured status. Currently, the members of the self-insurers council are appointed by LIRC. This bill requires the secretary of workforce development to appoint the members of the self-insurers council.

Deputy administrator of worker's compensation division of DWD

Under current law, DWD must have on its staff such examiners as are necessary to hear and decide disputed claims for worker's compensation and to assist in the administration of the worker's compensation law. An examiner may make findings and orders, and approve, review, set aside, modify or confirm stipulations of settlement and compromises of claims for worker's compensation. Current law defines "examiner" to include the deputy administrator of the worker's compensation division of DWD. This bill eliminates the inclusion of the deputy administrator of that division as an "examiner" under the worker's compensation law.

Petitions for review of a worker's compensation decision

Under current law, LIRC must dismiss a petition for review of a DWD hearing examiner's decision awarding or denying worker's compensation that is not received by DWD or LIRC within 21 days after DWD mailed a copy of the examiner's findings and order to the petitioner's last-known address, unless the *petition* shows probable good cause that the reason for failure to timely file the petition was beyond the petitioner's control. This bill requires LIRC to dismiss such a petition that is not timely filed unless the *petitioner* shows probable good cause that the reason for failure to timely file the petition was beyond the petitioner's control.

Uninsured employers fund

Under current law, DWD administers an uninsured employers fund, from which DWD pays to an injured employee of an uninsured employer compensation that is equal to the amount of worker's compensation that the uninsured employer owes to the injured employee. This bill corrects an incorrect reference in current law to the "insured employers fund" by changing that reference to the "uninsured employers fund".

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 15.227 (4) of the statutes is amended to read:

2 15.227 (4) COUNCIL ON WORKER'S COMPENSATION. There is created in the
3 department of workforce development a council on worker's compensation appointed
4 by the ~~labor and industry review commission~~ secretary of workforce development ✓
5 consist of a member or designated employe of the department of workforce
6 development ~~or the labor and industry review commission~~ as chairperson, 5
7 representatives of employers and 5 representatives of employees. The ~~commission~~
8 secretary of workforce development ✓ shall also appoint 3 representatives of insurers
9 authorized to do a worker's compensation insurance business in this state as
10 nonvoting members of the council.

History: 1971 c. 271; 1975 c. 147 s. 54; 1975 c. 404, 405; 1977 c. 17, 29, 325; 1979 c. 102, 189; 1979 c. 221 ss. 45, 46m; 1981 c. 237, 341; 1983 a. 122, 388; 1985 a. 332; 1987 a. 27, 399; 1989 a. 31, 64; 1991 a. 39, 269, 295; 1993 a. 126, 399; 1995 a. 27 ss. 152 to 165, 9126 (19), 9130 (4); 1995 a. 225; 1997 a. 3, 27, 39.

11 **SECTION 2.** 15.227 (11) of the statutes is amended to read:

12 15.227 (11) SELF-INSURERS COUNCIL. There is created in the department of
13 workforce development a self-insurers council consisting of 5 members appointed by
14 the ~~labor and industry review commission~~ ✓ secretary of workforce development for
15 3-year terms.

History: 1971 c. 271; 1975 c. 147 s. 54; 1975 c. 404, 405; 1977 c. 17, 29, 325; 1979 c. 102, 189; 1979 c. 221 ss. 45, 46m; 1981 c. 237, 341; 1983 a. 122, 388; 1985 a. 332; 1987 a. 27, 399; 1989 a. 31, 64; 1991 a. 39, 269, 295; 1993 a. 126, 399; 1995 a. 27 ss. 152 to 165, 9126 (19), 9130 (4); 1995 a. 225; 1997 a. 3, 27, 39.

16 **SECTION 3.** 102.01 (2) (b) ✓ of the statutes is repealed.

17 **SECTION 4.** 102.05 (1) of the statutes is amended to read:

18 102.05 (1) An employer who has had no employe at any time within a
19 continuous period of 2 years shall be deemed to have effected withdrawal, which

1 shall be effective on the last day of such period. An employer who has not usually
2 employed 3 employees and who has not paid wages of at least \$500 for employment
3 in this state in ~~any~~ every [✓] calendar quarter in a calendar year may file a withdrawal
4 notice with the department, which withdrawal shall take effect 30 days after the date
5 of such filing or at such later date as is specified in the notice. If an employer who
6 is subject to this chapter only because the employer elected to become subject to this
7 chapter under sub. (2) cancels or terminates his or her contract for the insurance of
8 compensation under this chapter, that employer is deemed to have effected
9 withdrawal, which shall be effective on the day after the contract is canceled or
10 terminated.

History: 1983 a. 98 s. 31; 1993 a. 81, 492.

11 **SECTION 5.** 102.07 (7) (a) of the statutes is amended to read:

12 102.07 (7) (a) Every member of ~~any~~ a [✓] volunteer fire company or fire department
13 organized under ch. 213 ~~or any, a~~ legally organized rescue squad ~~shall be deemed or~~
14 a legally organized diving team is considered to be an employee of such ~~that~~ ^{plain A} company,
15 department ~~or, squad or team~~ [✓]. Every such member of a company, department, squad
16 or team described in this paragraph [✓], while serving as an auxiliary police officer at
17 an emergency, ~~shall also be deemed~~ is also considered to be an employee of said ~~that~~
18 company, department ~~or, squad or team~~ [✓]. If ~~such~~ a company, department ~~or, squad~~
19 or team described in this paragraph [✓] has not insured its liability for compensation to
20 its employees, the municipality or county within which ~~such~~ that [✓] company,
21 department ~~or, squad or team~~ was organized shall be liable for ~~such~~ that
22 compensation.

23 **SECTION 6.** 102.07 (7) (b) of the statutes is amended to read:

102.07 (7) (b) The department may issue an order under s. 102.31 (1) (b) permitting the county within which a volunteer fire company or fire department organized under ch. 213, a legally organized rescue squad ~~or~~, an ambulance service provider, as defined in s. 146.50 (1) (c), or a legally organized diving team is organized to assume full liability for the compensation provided under this chapter of all volunteer members of that company, department, squad ~~or~~, provider or team.

SECTION 7. 102.07 (12m) of the statutes is amended to read:

102.07 (12m) A student of a public school, as described in s. 115.01 (1), or a private school, as defined in s. 115.001 (3r), while he or she is engaged in performing services as part of a school work training, work experience or work study program, and who is not on the payroll of an employer that is providing the work training or work experience or who is not otherwise receiving compensation on which a worker's compensation carrier could assess premiums on that employer, is an employee of a school district or private school that elects under s. 102.077 to name the student as its employee. This subsection does not apply after December 31, 1999 2001.

History: 1975 c. 147 s. 54; 1975 c. 224; 1977 c. 29; 1979 c. 278; 1981 c. 325; 1983 a. 27, 98; 1985 a. 29, 83, 135; 1985 a. 150 s. 4; 1985 a. 176, 332; 1987 a. 63; 1989 a. 31, 64, 359; 1993 a. 16, 81, 112, 399; 1995 a. 24, 77, 96, 117, 225, 281, 289, 417; 1997 a. 35, 38, 118.

SECTION 8. 102.077 (3) of the statutes is amended to read:

102.077 (3) This section does not apply after December 31, 1999 2001.

History: 1995 a. 117; 1997 a. 38.

SECTION 9. 102.16 (2) (d) of the statutes is amended to read:

102.16 (2) (d) For fee disputes that are submitted to the department before July 1, 2000 2002, the department shall analyze the information provided to the department under par. (c) according to the criteria provided in this paragraph to determine the reasonableness of the disputed fee. The department shall determine that a disputed fee is reasonable and order that the disputed fee be paid if that fee is at or below the mean fee for the health service procedure for which the disputed

1 fee was charged, plus 1.5 standard deviations from that mean, as shown by data from
2 a data base that is certified by the department under par. (h). The department shall
3 determine that a disputed fee is unreasonable and order that a reasonable fee be paid
4 if the disputed fee is above the mean fee for the health service procedure for which
5 the disputed fee was charged, plus 1.5 standard deviations from that mean, as shown
6 by data from a data base that is certified by the department under par. (h), unless
7 the health service provider proves to the satisfaction of the department that a higher
8 fee is justified because the service provided in the disputed case was more difficult
9 or more complicated to provide than in the usual case.

History: 1975 c. 147, 200; 1977 c. 195; 1981 c. 92, 314; 1983 a. 98; 1985 a. 83; 1989 a. 64; 1991 a. 85; 1993 a. 81; 1995 a. 117; 1997 a. 38.

10 **SECTION 10.** 102.18 (3) of the statutes is amended to read:

11 102.18 (3) A party in interest may petition the commission for review of an
12 examiner's decision awarding or denying compensation if the department or
13 commission receives the petition within 21 days after the department mailed a copy
14 of the examiner's findings and order to the party's last-known address. The
15 commission shall dismiss a petition which is not timely filed unless the ~~petition~~
16 petitioner shows probable good cause that the reason for failure to timely file was
17 beyond the petitioner's control. If no petition is filed within 21 days from the date
18 that a copy of the findings or order of the examiner is mailed to the last-known
19 address of the parties in interest, the findings or order shall be considered final
20 unless set aside, reversed or modified by the examiner within that time. If the
21 findings or order are set aside by the examiner the status shall be the same as prior
22 to the findings or order set aside. If the findings or order are reversed or modified
23 by the examiner the time for filing a petition commences with the date that notice
24 of reversal or modification is mailed to the last-known address of the parties in

1 interest. The commission shall either affirm, reverse, set aside or modify the
2 findings or order in whole or in part, or direct the taking of additional evidence. This
3 action shall be based on a review of the evidence submitted.

History: 1971 c. 148; 1973 c. 150; 1975 c. 147; 1977 c. 29, 195; 1979 c. 89, 278, 355; 1981 c. 92; 1983 a. 98; 1985 a. 83; 1987 a. 179; 1989 a. 64; 1997 a. 38.

4 **SECTION 11.** 102.29 (8) of the statutes is amended to read:

5 102.29 (8) No student of a public school, as described in s. 115.01 (1), or a private
6 school, as defined in s. 115.001 (3r), who is named under s. 102.077 as an employe
7 of the school district or private school for purposes of this chapter and who makes a
8 claim for compensation under this chapter may make a claim or maintain an action
9 in tort against the employer that provided the work training or work experience from
10 which the claim arose. This subsection does not apply to injuries occurring after
11 December 31, ~~1999~~ [✓] 2001.

History: 1975 c. 147 ss. 24, 54; 1977 c. 195; 1979 c. 323 s. 33; 1981 c. 92; 1985 a. 83 s. 44; 1985 a. 332 s. 253; 1987 a. 179; 1989 a. 64; 1995 a. 117, 289; 1997 a. 38.

12 **SECTION 12.** 102.475 (title) of the statutes is amended to read:

13 102.475 (title) **Death benefit; law enforcement and correctional**
14 **officers, fire fighters, rescue squad members, [✓]diving team members,**
15 **national or state guard members and emergency management personnel.**

16 **SECTION 13.** 102.475 (1) of the statutes is amended to read:

17 102.475 (1) SPECIAL BENEFIT. If the deceased employe is a law enforcement
18 officer, correctional officer, fire fighter, rescue squad member, [✓]diving team member,
19 national guard member or state defense force member on state active duty as
20 described in s. 102.07 (9) or if a deceased person is an employe or volunteer
21 performing emergency management activities under ch. 166 during a state of
22 emergency or a circumstance described in s. 166.04, who sustained an accidental
23 injury while performing services growing out of and incidental to that employment

1 or volunteer activity so that benefits are payable under s. 102.46 or 102.47 (1), the
2 department shall voucher and pay from the appropriation under s. 20.445 (1) (aa) a
3 sum equal to 75% of the primary death benefit as of the date of death, but not less
4 than \$50,000 to the persons wholly dependent upon the deceased. For purposes of
5 this subsection, dependency shall be determined under ss. 102.49 and 102.51.

6 **SECTION 14.** 102.475 (8) (am) of the statutes is created to read:

7 102.475 (8) (am) [✓]“Diving team member” means a member of a legally organized
8 diving team.

9 **SECTION 15.** 102.475 (8) (b) of the statutes is amended to read:

10 102.475 (8) (b) “Fire fighter” means any person employed by the state or any
11 political subdivision as a member or officer of a fire department or a member of a
12 volunteer department, including the state fire marshal and deputies ~~or a member of~~
13 ~~a legally organized rescue squad.~~ [✓]

14 **SECTION 16.** 102.475 (8) (dm) of the statutes is created to read:

15 102.475 (8) (dm) “Rescue squad member” means a member of a legally
16 organized rescue squad. [✓]

17 **SECTION 17.** 102.87 (9) of the statutes is amended to read:

18 102.87 (9) A department deputy or an officer who collects a forfeiture, penalty
19 assessment, jail assessment, crime laboratories and drug law enforcement
20 assessment, applicable ~~insured~~ uninsured [✓] employer assessment and costs under
21 this section shall pay the money to the county treasurer within 20 days after its
22 receipt. If the department deputy or officer fails to make timely payment, the county
23 treasurer may collect the payment from the department deputy or officer by an action
24 in the treasurer’s name of office and upon the official bond of the department deputy

1 or officer, with interest at the rate of 12% per year from the time when it should have
2 been paid.

3 History: 1989 a. 64; 1997 a. 27.

3 **SECTION 18. Initial applicability.**

4 (1) COVERAGE OF VOLUNTEER DIVING TEAM MEMBERS. The treatment of sections
5 102.07 (7) (a) ✓ and 102.475 (1) and (8) (am) ✓ of the statutes first applies to injuries
6 occurring on the effective date of this subsection.

7 (2) COUNCIL ON WORKER'S COMPENSATION AND SELF-INSURERS ✓ COUNCIL. The
8 treatment of section 15.224 (4) and (11) ✓ of the statutes first applies to members
9 appointed to the council on worker's compensation and the self-insurers council on
10 the effective date of this subsection.

11 (3) WITHDRAWAL FROM COVERAGE. The treatment of section ✓ 102.05 (1) of the
12 statutes first applies to withdrawal notices filed under section 102.05 (1) of the
13 statutes, as affected by this act, on the effective date of this ✓ subsection.

14 (END)

**SUBMITTAL
FORM**

LEGISLATIVE REFERENCE BUREAU
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and sign on the appropriate line(s) below.

Date: 7/13/99

To: Workforce Development (Dick Smith)

Relating to LRB drafting number: LRB-3192

Topic

Worker's compensation changes

Subject(s)

Employ Priv - worker's comp

1. **JACKET** the draft for introduction _____

in the **Senate** _____ or the **Assembly** _____ (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT**. See the changes indicated or attached _____

*Dick Smith (p. 4, line 9.
p. 10, line 11)*

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction _____

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Gordon M. Malaise, Senior Legislative Attorney
Telephone: (608) 266-9738



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-3192/1
GMM:jlg:kjf

1999 BILL

1 AN ACT *to repeal* 102.01 (2) (b); *to amend* 15.227 (4), 15.227 (11), 102.05 (1),
2 102.07 (7) (a), 102.07 (7) (b), 102.07 (12m), 102.077 (3), 102.16 (2) (d), 102.18 (3),
3 102.29 (8), 102.475 (title), 102.475 (1), 102.475 (8) (b) and 102.87 (9); and *to*
4 *create* 102.475 (8) (am) and 102.475 (8) (dm) of the statutes; *relating to:*
5 various changes to the worker's compensation law.

Analysis by the Legislative Reference Bureau

This bill makes various changes relating to worker's compensation, as administered by the department of workforce development (DWD), as follows:

Withdrawal from coverage

Under current law, every person who usually employs three or more employees and every person who usually employs less than three employees, but who has paid wages of \$500 or more in any calendar quarter for services performed in this state, is subject to the worker's compensation law. An employer who has not usually employed three employees and who has not paid wages of at least \$500 in this state in *any* calendar quarter in a calendar year, however, may withdraw from coverage under the worker's compensation law. This bill restricts withdrawal from worker's compensation coverage for an employer who has not usually employed three employees only if the employer has not paid wages of at least \$500 in this state in *every* calendar quarter in a calendar year.

BILL***Coverage of diving team members***

Under current law, a member of a volunteer fire department or legally organized rescue squad is considered to be an employee of that department or squad for purposes of worker's compensation coverage except that, if that department or squad has not insured its liability for worker's compensation to its employees, the county or municipality within which that department or squad is organized is liable for that worker's compensation. Current law also permits DWD to issue an order permitting the county within which a volunteer fire department, legally organized rescue squad or ambulance service provider is organized to assume full liability for worker's compensation for all volunteer members of that department, squad or provider.

This bill provides that a member of a legally organized diving team is considered to be an employee of that team for purposes of worker's compensation coverage except that, if that team has not insured its liability for worker's compensation to its employees, the county or municipality within which that team is organized is liable for that worker's compensation. The bill also permits DWD to issue an order permitting the county within which a legally organized diving team is organized to assume full liability for worker's compensation for all volunteer members of that team.

Under current law, if a law enforcement officer, correctional officer, fire fighter, rescue squad member, national guard member, state defense force member or emergency management employee or volunteer dies as a result of an injury sustained while performing services growing out of and incidental to his or her employment or volunteer activity or dies while totally and permanently disabled as a result of such an injury, DWD must pay death benefits of not less than \$50,000 to the person's dependents.

This bill requires DWD to pay death benefits of not less than \$50,000 to the dependents of a diving team member who dies as a result of an injury sustained while performing services growing out of and incidental to his or her employment or volunteer activity or who dies while totally and permanently disabled as a result of such an injury.

Extension of expiring provisions

Currently, a student of a public school or a private school, while he or she is engaged in performing services as part of a school work training, work experience or work study program, who is not on the payroll of an employer that is providing the work training or work experience or who is not otherwise receiving compensation on which a worker's compensation carrier could assess premiums on that employer, is an employee of a school district or private school that elects to name the student as an employee for purposes of worker's compensation coverage. Also, under current law, a student who is named as an employee of a school district or private school for purposes of worker's compensation coverage and who makes a claim for worker's compensation against his or her school district or private school may not also make a claim for worker's compensation or maintain an action in tort against the employer that provided the work training or work experience from which the claim arose.

BILL

Currently, these provisions do not apply to injuries occurring after December 31, 1999. This bill extends that expiration date to December 31, 2001.

Under current law, DWD may determine the reasonableness of the fees charged for health services that are provided for an injured employee for whom worker's compensation is paid. Currently, DWD's authority to determine the reasonableness of a health service fee expires on July 1, 2000. This bill extends that expiration date to July 1, 2002.

Council on worker's compensation and self-insurers council

Under current law, there is created in DWD a council on worker's compensation whose duties include advising DWD in carrying out the purposes of the worker's compensation law, submitting recommendations relating to amendments to the worker's compensation law to each regular session of the legislature and reporting its views on pending legislation relating to worker's compensation to the proper legislative committees. Currently, the members of the council on worker's compensation are appointed by the labor and industry review commission (LIRC), and a designated employee of DWD or LIRC may serve as chairperson of the council. This bill requires the secretary of workforce development, rather than LIRC, to appoint the members of the council on worker's compensation. The bill also eliminates the option of designating an employee of LIRC to serve as chairperson of the council.

Under current law, there is created in DWD a self-insurers council whose duties include advising DWD on matters relating to employers that self-insure their worker's compensation liability rather than purchase insurance to cover that liability, including any proposed revocation by DWD of an employer's self-insured status. Currently, the members of the self-insurers council are appointed by LIRC. This bill requires the secretary of workforce development to appoint the members of the self-insurers council.

Deputy administrator of worker's compensation division of DWD

Under current law, DWD must have on its staff such examiners as are necessary to hear and decide disputed claims for worker's compensation and to assist in the administration of the worker's compensation law. An examiner may make findings and orders, and approve, review, set aside, modify or confirm stipulations of settlement and compromises of claims for worker's compensation. Current law defines "examiner" to include the deputy administrator of the worker's compensation division of DWD. This bill eliminates the inclusion of the deputy administrator of that division as an "examiner" under the worker's compensation law.

Petitions for review of a worker's compensation decision

Under current law, LIRC must dismiss a petition for review of a DWD hearing examiner's decision awarding or denying worker's compensation that is not received by DWD or LIRC within 21 days after DWD mailed a copy of the examiner's findings and order to the petitioner's last-known address, unless the *petition* shows probable good cause that the reason for failure to timely file the petition was beyond the petitioner's control. This bill requires LIRC to dismiss such a petition that is not timely filed unless the *petitioner* shows probable good cause that the reason for failure to timely file the petition was beyond the petitioner's control.

BILL***Uninsured employers fund***

Under current law, DWD administers an uninsured employers fund, from which DWD pays to an injured employee of an uninsured employer compensation that is equal to the amount of worker's compensation that the uninsured employer owes to the injured employee. This bill corrects an incorrect reference in current law to the "insured employers fund" by changing that reference to the "uninsured employers fund".

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 15.227 (4) of the statutes is amended to read:

2 15.227 (4) COUNCIL ON WORKER'S COMPENSATION. There is created in the
3 department of workforce development a council on worker's compensation appointed
4 by the ~~labor and industry review commission~~ secretary of workforce development to
5 consist of a member or designated employee of the department of workforce
6 development ~~or the labor and industry review commission~~ as chairperson, 5
7 representatives of employers and 5 representatives of employees. The ~~commission~~
8 secretary of workforce development shall also appoint 3 representatives of insurers
9 authorized to do ~~a~~ worker's compensation insurance business in this state as
10 nonvoting members of the council.

11 **SECTION 2.** 15.227 (11) of the statutes is amended to read:

12 15.227 (11) SELF-INSURERS COUNCIL. There is created in the department of
13 workforce development a self-insurers council consisting of 5 members appointed by
14 the ~~labor and industry review commission~~ secretary of workforce development for
15 3-year terms.

16 **SECTION 3.** 102.01 (2) (b) of the statutes is repealed.

17 **SECTION 4.** 102.05 (1) of the statutes is amended to read:

BILL

1 102.05 (1) An employer who has had no employee at any time within a
2 continuous period of 2 years shall be deemed to have effected withdrawal, which
3 shall be effective on the last day of such period. An employer who has not usually
4 employed 3 employees and who has not paid wages of at least \$500 for employment
5 in this state in ~~any every~~ calendar quarter in a calendar year may file a withdrawal
6 notice with the department, which withdrawal shall take effect 30 days after the date
7 of such filing or at such later date as is specified in the notice. If an employer who
8 is subject to this chapter only because the employer elected to become subject to this
9 chapter under sub. (2) cancels or terminates his or her contract for the insurance of
10 compensation under this chapter, that employer is deemed to have effected
11 withdrawal, which shall be effective on the day after the contract is canceled or
12 terminated.

13 **SECTION 5.** 102.07 (7) (a) of the statutes is amended to read:

14 102.07 (7) (a) Every member of ~~any a~~ volunteer fire company or fire department
15 organized under ch. 213 ~~or any, a~~ legally organized rescue squad ~~shall be deemed or~~
16 a legally organized diving team is considered to be an employee of ~~such that~~ company,
17 department ~~or, squad or team~~. Every ~~such~~ member of a company, department, squad
18 or team described in this paragraph, while serving as an auxiliary police officer at
19 an emergency, ~~shall also be deemed is also considered to be~~ an employee of ~~said that~~
20 company, department ~~or, squad or team~~. If ~~such a~~ company, department ~~or, squad~~
21 or team described in this paragraph has not insured its liability for compensation to
22 its employees, the municipality or county within which ~~such that~~ company,
23 department ~~or, squad or team~~ was organized shall be liable for ~~such that~~
24 compensation.

25 **SECTION 6.** 102.07 (7) (b) of the statutes is amended to read:

BILL

1 102.07 (7) (b) The department may issue an order under s. 102.31 (1) (b)
2 permitting the county within which a volunteer fire company or fire department
3 organized under ch. 213, a legally organized rescue squad ~~or~~, an ambulance service
4 provider, as defined in s. 146.50 (1) (c), or a legally organized diving team is organized
5 to assume full liability for the compensation provided under this chapter of all
6 volunteer members of that company, department, squad ~~or~~, provider or team.

7 **SECTION 7.** 102.07 (12m) of the statutes is amended to read:

8 102.07 (12m) A student of a public school, as described in s. 115.01 (1), or a
9 private school, as defined in s. 115.001 (3r), while he or she is engaged in performing
10 services as part of a school work training, work experience or work study program,
11 and who is not on the payroll of an employer that is providing the work training or
12 work experience or who is not otherwise receiving compensation on which a worker's
13 compensation carrier could assess premiums on that employer, is an employee of a
14 school district or private school that elects under s. 102.077 to name the student as
15 its employee. This subsection does not apply after December 31, ~~1999~~ 2001.

16 **SECTION 8.** 102.077 (3) of the statutes is amended to read:

17 102.077 (3) This section does not apply after December 31, ~~1999~~ 2001.

18 **SECTION 9.** 102.16 (2) (d) of the statutes is amended to read:

19 102.16 (2) (d) For fee disputes that are submitted to the department before
20 July 1, ~~2000~~ 2002, the department shall analyze the information provided to the
21 department under par. (c) according to the criteria provided in this paragraph to
22 determine the reasonableness of the disputed fee. The department shall determine
23 that a disputed fee is reasonable and order that the disputed fee be paid if that fee
24 is at or below the mean fee for the health service procedure for which the disputed
25 fee was charged, plus 1.5 standard deviations from that mean, as shown by data from

BILL

1 a data base that is certified by the department under par. (h). The department shall
2 determine that a disputed fee is unreasonable and order that a reasonable fee be paid
3 if the disputed fee is above the mean fee for the health service procedure for which
4 the disputed fee was charged, plus 1.5 standard deviations from that mean, as shown
5 by data from a data base that is certified by the department under par. (h), unless
6 the health service provider proves to the satisfaction of the department that a higher
7 fee is justified because the service provided in the disputed case was more difficult
8 or more complicated to provide than in the usual case.

9 **SECTION 10.** 102.18 (3) of the statutes is amended to read:

10 102.18 (3) A party in interest may petition the commission for review of an
11 examiner's decision awarding or denying compensation if the department or
12 commission receives the petition within 21 days after the department mailed a copy
13 of the examiner's findings and order to the party's last-known address. The
14 commission shall dismiss a petition which is not timely filed unless the petition
15 petitioner shows probable good cause that the reason for failure to timely file was
16 beyond the petitioner's control. If no petition is filed within 21 days from the date
17 that a copy of the findings or order of the examiner is mailed to the last-known
18 address of the parties in interest, the findings or order shall be considered final
19 unless set aside, reversed or modified by the examiner within that time. If the
20 findings or order are set aside by the examiner the status shall be the same as prior
21 to the findings or order set aside. If the findings or order are reversed or modified
22 by the examiner the time for filing a petition commences with the date that notice
23 of reversal or modification is mailed to the last-known address of the parties in
24 interest. The commission shall either affirm, reverse, set aside or modify the

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1 findings or order in whole or in part, or direct the taking of additional evidence. This
2 action shall be based on a review of the evidence submitted.

3 **SECTION 11.** 102.29 (8) of the statutes is amended to read:

4 102.29 (8) No student of a public school, as described in s. 115.01 (1), or a private
5 school, as defined in s. 115.001 (3r), who is named under s. 102.077 as an employe
6 of the school district or private school for purposes of this chapter and who makes a
7 claim for compensation under this chapter may make a claim or maintain an action
8 in tort against the employer that provided the work training or work experience from
9 which the claim arose. This subsection does not apply to injuries occurring after
10 December 31, 1999 2001.

11 **SECTION 12.** 102.475 (title) of the statutes is amended to read:

12 **102.475 (title) Death benefit; law enforcement and correctional**
13 **officers, fire fighters, rescue squad members, diving team members,**
14 **national or state guard members and emergency management personnel.**

15 **SECTION 13.** 102.475 (1) of the statutes is amended to read:

16 102.475 (1) SPECIAL BENEFIT. If the deceased employe is a law enforcement
17 officer, correctional officer, fire fighter, rescue squad member, diving team member,
18 national guard member or state defense force member on state active duty as
19 described in s. 102.07 (9) or if a deceased person is an employe or volunteer
20 performing emergency management activities under ch. 166 during a state of
21 emergency or a circumstance described in s. 166.04, who sustained an accidental
22 injury while performing services growing out of and incidental to that employment
23 or volunteer activity so that benefits are payable under s. 102.46 or 102.47 (1), the
24 department shall voucher and pay from the appropriation under s. 20.445 (1) (aa) a
25 sum equal to 75% of the primary death benefit as of the date of death, but not less

BILL

1 than \$50,000 to the persons wholly dependent upon the deceased. For purposes of
2 this subsection, dependency shall be determined under ss. 102.49 and 102.51.

3 **SECTION 14.** 102.475 (8) (am) of the statutes is created to read:

4 102.475 (8) (am) "Diving team member" means a member of a legally organized
5 diving team.

6 **SECTION 15.** 102.475 (8) (b) of the statutes is amended to read:

7 102.475 (8) (b) "Fire fighter" means any person employed by the state or any
8 political subdivision as a member or officer of a fire department or a member of a
9 volunteer department, including the state fire marshal and deputies ~~or a member of~~
10 ~~a legally organized rescue squad.~~

11 **SECTION 16.** 102.475 (8) (dm) of the statutes is created to read:

12 102.475 (8) (dm) "Rescue squad member" means a member of a legally
13 organized rescue squad.

14 **SECTION 17.** 102.87 (9) of the statutes is amended to read:

15 102.87 (9) A department deputy or an officer who collects a forfeiture, penalty
16 assessment, jail assessment, crime laboratories and drug law enforcement
17 assessment, applicable insured uninsured employer assessment and costs under
18 this section shall pay the money to the county treasurer within 20 days after its
19 receipt. If the department deputy or officer fails to make timely payment, the county
20 treasurer may collect the payment from the department deputy or officer by an action
21 in the treasurer's name of office and upon the official bond of the department deputy
22 or officer, with interest at the rate of 12% per year from the time when it should have
23 been paid.

24 **SECTION 18. Initial applicability.**

BILL

1 (1) COVERAGE OF VOLUNTEER DIVING TEAM MEMBERS. The treatment of sections
2 102.07 (7) (a) and 102.475 (1) and (8) (am) of the statutes first applies to injuries
3 occurring on the effective date of this subsection.

4 (2) COUNCIL ON WORKER'S COMPENSATION AND SELF-INSURERS COUNCIL. The
5 treatment of section 15.224 (4) and (11) of the statutes first applies to members
6 appointed to the council on worker's compensation and the self-insurers council on
7 the effective date of this subsection.

8 (3) WITHDRAWAL FROM COVERAGE. The treatment of section 102.05 (1) of the
9 statutes first applies to withdrawal notices filed under section 102.05 (1) of the
10 statutes, as affected by this act, on the effective date of this subsection.

11 (END)

AN
~~the intent of the~~ sections should take effect
on 1-1-2000 (or the day after publication,
whichever is later.)



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-3192/1
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(p 10, 81)

1999 BILL

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- 1 AN ACT *to repeal* 102.01 (2) (b); *to amend* 15.227 (4), 15.227 (11), 102.05 (1),
2 102.07 (7) (a), 102.07 (7) (b), 102.07 (12m), 102.077 (3), 102.16 (2) (d), 102.18 (3),
3 102.29 (8), 102.475 (title), 102.475 (1), 102.475 (8) (b) and 102.87 (9); and *to*
4 *create* 102.475 (8) (am) and 102.475 (8) (dm) of the statutes; **relating to:**
5 various changes to the worker's compensation law.

Analysis by the Legislative Reference Bureau

This bill makes various changes relating to worker's compensation, as administered by the department of workforce development (DWD), as follows:

Withdrawal from coverage

Under current law, every person who usually employs three or more employees and every person who usually employs less than three employees, but who has paid wages of \$500 or more in any calendar quarter for services performed in this state, is subject to the worker's compensation law. An employer who has not usually employed three employees and who has not paid wages of at least \$500 in this state in any calendar quarter in a calendar year, however, may withdraw from coverage under the worker's compensation law. This bill restricts withdrawal from worker's compensation coverage for an employer who has not usually employed three employees only if the employer has not paid wages of at least \$500 in this state in every calendar quarter in a calendar year.

BILL***Coverage of diving team members***

Under current law, a member of a volunteer fire department or legally organized rescue squad is considered to be an employee of that department or squad for purposes of worker's compensation coverage except that, if that department or squad has not insured its liability for worker's compensation to its employees, the county or municipality within which that department or squad is organized is liable for that worker's compensation. Current law also permits DWD to issue an order permitting the county within which a volunteer fire department, legally organized rescue squad or ambulance service provider is organized to assume full liability for worker's compensation for all volunteer members of that department, squad or provider.

This bill provides that a member of a legally organized diving team is considered to be an employee of that team for purposes of worker's compensation coverage except that, if that team has not insured its liability for worker's compensation to its employees, the county or municipality within which that team is organized is liable for that worker's compensation. The bill also permits DWD to issue an order permitting the county within which a legally organized diving team is organized to assume full liability for worker's compensation for all volunteer members of that team.

Under current law, if a law enforcement officer, correctional officer, fire fighter, rescue squad member, national guard member, state defense force member or emergency management employee or volunteer dies as a result of an injury sustained while performing services growing out of and incidental to his or her employment or volunteer activity or dies while totally and permanently disabled as a result of such an injury, DWD must pay death benefits of not less than \$50,000 to the person's dependents.

This bill requires DWD to pay death benefits of not less than \$50,000 to the dependents of a diving team member who dies as a result of an injury sustained while performing services growing out of and incidental to his or her employment or volunteer activity or who dies while totally and permanently disabled as a result of such an injury.

Extension of expiring provisions

Currently, a student of a public school or a private school, while he or she is engaged in performing services as part of a school work training, work experience or work study program, who is not on the payroll of an employer that is providing the work training or work experience or who is not otherwise receiving compensation on which a worker's compensation carrier could assess premiums on that employer, is an employee of a school district or private school that elects to name the student as an employee for purposes of worker's compensation coverage. Also, under current law, a student who is named as an employee of a school district or private school for purposes of worker's compensation coverage and who makes a claim for worker's compensation against his or her school district or private school may not also make a claim for worker's compensation or maintain an action in tort against the employer that provided the work training or work experience from which the claim arose.

BILL

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For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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5 consist of a member or designated employee of the department of workforce
6 development ~~or the labor and industry review commission~~ as chairperson, 5
7 representatives of employers and 5 representatives of employees. The ~~commission~~
8 secretary of workforce development shall also appoint 3 representatives of insurers
9 authorized to do [↓]~~a~~ worker's compensation insurance business in this state as
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BILL

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3 shall be effective on the last day of such period. An employer who has not usually
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5 in this state in ~~any~~ every calendar quarter in a calendar year may file a withdrawal
6 notice with the department, which withdrawal shall take effect 30 days after the date
7 of such filing or at such later date as is specified in the notice. If an employer who
8 is subject to this chapter only because the employer elected to become subject to this
9 chapter under sub. (2) cancels or terminates his or her contract for the insurance of
10 compensation under this chapter, that employer is deemed to have effected
11 withdrawal, which shall be effective on the day after the contract is canceled or
12 terminated.

13 **SECTION 5.** 102.07 (7) (a) of the statutes is amended to read:

14 102.07 (7) (a) Every member of ~~any~~ a volunteer fire company or fire department
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16 a legally organized diving team is considered to be an employee of ~~such~~ that company,
17 department ~~or~~ squad or team. Every ~~such~~ member of a company, department, squad
18 or team described in this paragraph, while serving as an auxiliary police officer at
19 an emergency, ~~shall also be deemed~~ is also considered to be an employee of said ~~that~~
20 company, department ~~or~~ squad or team. If ~~such~~ a company, department ~~or~~ squad
21 or team described in this paragraph has not insured its liability for compensation to
22 its employees, the municipality or county within which ~~such~~ that company,
23 department ~~or~~ squad or team was organized shall be liable for ~~such~~ that
24 compensation.

25 **SECTION 6.** 102.07 (7) (b) of the statutes is amended to read:

BILL

1 102.07 (7) (b) The department may issue an order under s. 102.31 (1) (b)
2 permitting the county within which a volunteer fire company or fire department
3 organized under ch. 213, a legally organized rescue squad ~~or~~, an ambulance service
4 provider, as defined in s. 146.50 (1) (c), or a legally organized diving team is organized
5 to assume full liability for the compensation provided under this chapter of all
6 volunteer members of that company, department, squad ~~or~~, provider or team.

7 **SECTION 7.** 102.07 (12m) of the statutes is amended to read:

8 102.07 (12m) A student of a public school, as described in s. 115.01 (1), or a
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10 services as part of a school work training, work experience or work study program,
11 and who is not on the payroll of an employer that is providing the work training or
12 work experience or who is not otherwise receiving compensation on which a worker's
13 compensation carrier could assess premiums on that employer, is an employee of a
14 school district or private school that elects under s. 102.077 to name the student as
15 its employee. This subsection does not apply after December 31, ~~1999~~ 2001.

16 **SECTION 8.** 102.077 (3) of the statutes is amended to read:

17 102.077 (3) This section does not apply after December 31, ~~1999~~ 2001.

18 **SECTION 9.** 102.16 (2) (d) of the statutes is amended to read:

19 102.16 (2) (d) For fee disputes that are submitted to the department before
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21 department under par. (c) according to the criteria provided in this paragraph to
22 determine the reasonableness of the disputed fee. The department shall determine
23 that a disputed fee is reasonable and order that the disputed fee be paid if that fee
24 is at or below the mean fee for the health service procedure for which the disputed
25 fee was charged, plus 1.5 standard deviations from that mean, as shown by data from

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1 a data base that is certified by the department under par. (h). The department shall
2 determine that a disputed fee is unreasonable and order that a reasonable fee be paid
3 if the disputed fee is above the mean fee for the health service procedure for which
4 the disputed fee was charged, plus 1.5 standard deviations from that mean, as shown
5 by data from a data base that is certified by the department under par. (h), unless
6 the health service provider proves to the satisfaction of the department that a higher
7 fee is justified because the service provided in the disputed case was more difficult
8 or more complicated to provide than in the usual case.

9 **SECTION 10.** 102.18 (3) of the statutes is amended to read:

10 102.18 (3) A party in interest may petition the commission for review of an
11 examiner's decision awarding or denying compensation if the department or
12 commission receives the petition within 21 days after the department mailed a copy
13 of the examiner's findings and order to the party's last-known address. The
14 commission shall dismiss a petition which is not timely filed unless the ~~petition~~
15 petitioner shows probable good cause that the reason for failure to timely file was
16 beyond the petitioner's control. If no petition is filed within 21 days from the date
17 that a copy of the findings or order of the examiner is mailed to the last-known
18 address of the parties in interest, the findings or order shall be considered final
19 unless set aside, reversed or modified by the examiner within that time. If the
20 findings or order are set aside by the examiner the status shall be the same as prior
21 to the findings or order set aside. If the findings or order are reversed or modified
22 by the examiner the time for filing a petition commences with the date that notice
23 of reversal or modification is mailed to the last-known address of the parties in
24 interest. The commission shall either affirm, reverse, set aside or modify the

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1 findings or order in whole or in part, or direct the taking of additional evidence. This
2 action shall be based on a review of the evidence submitted.

3 **SECTION 11.** 102.29 (8) of the statutes is amended to read:

4 102.29 (8) No student of a public school, as described in s. 115.01 (1), or a private
5 school, as defined in s. 115.001 (3r), who is named under s. 102.077 as an employe
6 of the school district or private school for purposes of this chapter and who makes a
7 claim for compensation under this chapter may make a claim or maintain an action
8 in tort against the employer that provided the work training or work experience from
9 which the claim arose. This subsection does not apply to injuries occurring after
10 December 31, ~~1999~~ 2001.

11 **SECTION 12.** 102.475 (title) of the statutes is amended to read:

12 **102.475 (title) Death benefit; law enforcement and correctional**
13 **officers, fire fighters, rescue squad members, diving team members,**
14 **national or state guard members and emergency management personnel.**

15 **SECTION 13.** 102.475 (1) of the statutes is amended to read:

16 102.475 (1) SPECIAL BENEFIT. If the deceased employe is a law enforcement
17 officer, correctional officer, fire fighter, rescue squad member, diving team member,
18 national guard member or state defense force member on state active duty as
19 described in s. 102.07 (9) or if a deceased person is an employe or volunteer
20 performing emergency management activities under ch. 166 during a state of
21 emergency or a circumstance described in s. 166.04, who sustained an accidental
22 injury while performing services growing out of and incidental to that employment
23 or volunteer activity so that benefits are payable under s. 102.46 or 102.47 (1), the
24 department shall voucher and pay from the appropriation under s. 20.445 (1) (aa) a
25 sum equal to 75% of the primary death benefit as of the date of death, but not less

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1 than \$50,000 to the persons wholly dependent upon the deceased. For purposes of
2 this subsection, dependency shall be determined under ss. 102.49 and 102.51.

3 **SECTION 14.** 102.475 (8) (am) of the statutes is created to read:

4 102.475 (8) (am) “Diving team member” means a member of a legally organized
5 diving team.

6 **SECTION 15.** 102.475 (8) (b) of the statutes is amended to read:

7 102.475 (8) (b) “Fire fighter” means any person employed by the state or any
8 political subdivision as a member or officer of a fire department or a member of a
9 volunteer department, including the state fire marshal and deputies ~~or a member of~~
10 ~~a legally organized rescue squad.~~

11 **SECTION 16.** 102.475 (8) (dm) of the statutes is created to read:

12 102.475 (8) (dm) “Rescue squad member” means a member of a legally
13 organized rescue squad.

14 **SECTION 17.** 102.87 (9) of the statutes is amended to read:

15 102.87 (9) A department deputy or an officer who collects a forfeiture, penalty
16 assessment, jail assessment, crime laboratories and drug law enforcement
17 assessment, applicable insured uninsured employer assessment and costs under
18 this section shall pay the money to the county treasurer within 20 days after its
19 receipt. If the department deputy or officer fails to make timely payment, the county
20 treasurer may collect the payment from the department deputy or officer by an action
21 in the treasurer’s name of office and upon the official bond of the department deputy
22 or officer, with interest at the rate of 12% per year from the time when it should have
23 been paid.

24 **SECTION 18. Initial applicability.**

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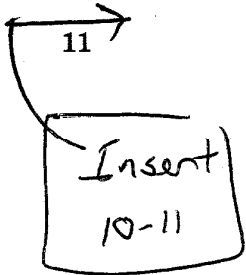
1 (1) COVERAGE OF VOLUNTEER DIVING TEAM MEMBERS. The treatment of sections
2 102.07 (7) (a) and 102.475 (1) and (8) (am) of the statutes first applies to injuries
3 occurring on the effective date of this subsection.

4 (2) COUNCIL ON WORKER'S COMPENSATION AND SELF-INSURERS COUNCIL. The
5 treatment of section 15.224 (4) and (11) of the statutes first applies to members
6 appointed to the council on worker's compensation and the self-insurers council on
7 the effective date of this subsection.

8 (3) WITHDRAWAL FROM COVERAGE. The treatment of section 102.05 (1) of the
9 statutes first applies to withdrawal notices filed under section 102.05 (1) of the
10 statutes, as affected by this act, on the effective date of this subsection.

(END)

11



1999

Insert 10-11

Nonstat File Sequence: **FFF**

LRB _____/_____/_____

EFFECTIVE DATE

1. In the component bar: For the action phrase, execute: ... **create** → **action:** → *NS: → **effdate**
For the text, execute: ... **create** → **text:** → *NS: → **effdateA**
2. Nonstatutory subunits are numbered automatically if "(#1)", "(#2)", etc., is filled in. Below, fill in "_____" or "()" only if a "frozen" number is needed.

SECTION # _____ . Effective date.

(#1) ~~_____~~ This act takes effect
on January 1, 2000, or on the day after publication, whichever is later.
(end of insert)

1. In the component bar: For the action phrase, execute: ... **create** → **action:** → *NS: → **effdateE**
For the text, execute: ... **create** → **text:** → *NS: → **effdate**
2. Nonstatutory subunits are numbered automatically if "(#1)", "(#2)", etc., is filled in. Below, fill in "_____" or "()" only if a "frozen" number is needed.

SECTION # _____ . Effective dates;

..... This act takes effect on the day after publication, except as follows:

(#1) () The treatment of
sections
of the statutes takes effect on

1. In the component bar: For the budget action phrase, execute: ... **create** → **action:** → *NS: → **94XX**
For the text, execute: ... **create** → **text:** → *NS: → **effdate**
2. Nonstatutory subunits are numbered automatically if "(#1)", "(#2)", etc., is filled in. Below, for the budget, fill in the **9400** department code, and fill in "()" only if a "frozen" number is needed.

SECTION 94 _____ . Effective dates;

(#1) () The treatment of
sections
of the statutes takes effect on

-3192/2

Jacket for
Vrakas

